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SENSITIVE
SIPDIS
DOL/ILAB LEYLA STROTKAMP, RACHEL RIGBY, TINA MCCARTER
DEPT FOR DRL/ILCSR FOR SARAH MORGAN
DEPT FOR G/TIP LUIS CDEBACA

E.O. 12958: N/A

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SUBJECT: Dominican Republic: Information on Child Labor and Forced Labor for DOL Congressional Reporting Requirements

REF: A) 09 STATE 131997; B) 08 SDO 00887; C) 09 SDO 00547

11. Pursuant to ref A, this is Post's response to a Department of Labor request for a list of goods that may have been produced with child or forced labor in the Dominican Republic as mandated by the 2005 Trafficking Victims Protection Reauthorization Act (TVPA). Although child labor remains a significant problem in several sectors, the Government of the Dominican Republic (GoDR) supported programs and efforts to eliminate and protect children from the worst forms of child labor. To strengthen this commitment, the Ministry of Labor (MOL) designated a Vice-Minister of Labor to work on eliminating child labor in all areas of the Dominican economy. In January 2008, the MOL further launched a program to support public-private partnerships aimed at preventing hazardous child labor with the goal of withdrawing or preventing 8,500 children from exploitive labor. In 2009, DevTech Systems, an international consulting firm, completed a 4-year project that withdrew over 3,700 children from exploitive child labor and prevented over 1,800 children from entering the worst forms of child labor. These children were later enrolled in transitional education programs, vocational programs, or in the formal educational system.

12. As reported previously (ref B), the following goods listed in paragraph 6 continue to be produced with child or forced labor in the Dominican Republic. Since the 2000 National Survey of Child Labor (ENTI) by the International Labor Organization-International Program for the Elimination of Child Labor (ILO-IPEC), no new comprehensive studies have been completed on the scope and extent of child labor. In 2000, the ENTI results showed that over 436,000 children were involved in some form of child labor, which represented around 18 percent of the population aged between 5 and 17 years. The Dominican Central Bank, however, released updated statistics in October 2009, which reported around 103,268 children were involved in child labor. The agricultural, hotel and tourism, and construction industries were found to have a high incidence of exploitive child labor. Poloff was also informed that the National Statistics Office (NSO) is in process of conducting a National Survey on Child Labor, and the results should be available sometime in the near future.

13. While work and living conditions in some Dominican bateyes remain deplorable, Post found no evidence of the practice of forced labor in the production of sugar. An NGO that advocates on behalf of cane workers, the Center for Legal Counseling and Research (CEDAIL), confirmed with Poloff that Haitians are no longer smuggled into sugar cane plantations, held behind locked enclosures, nor have their movements restricted by armed guards. Moreover, in recent years, some major sugar companies started the practice of issuing worker identification cards, providing private medical insurance to undocumented workers, and also improving

housing, equipment and work facilities for their workers.

¶4. In 2009, the MOL conducted a total of 83,363 labor inspections in various sectors of the economy. (NOTE: These inspections were not limited or focused exclusively on child labor).

¶5. The following is a list of products alleged to be produced with child or forced labor, as suggested by the ILO-IPEC, the Department of Labor, and other credible sources:

Garlic, potatoes

Previous reporting cited sources to the effect that child labor was a serious problem in garlic and potato production in certain regions in the Dominican Republic (ref B). Post does not have new information to support this assertion.

Host government, industry, or NGO efforts

The Ministries of Labor and Education continue to support the Combating Child Labor through Education program. In March 2009, the Ministry of Labor and the National Child and Youth Council (CONANI) launched a program to train and give productive job experiences to youths ages 16 to 19. After the completion of the program, the participants enrolled in the Ministry's national electronic job bank. Other projects include: Proyecto Desarrollo Juvenil and the Plan de Empleo Juvenil. To further prevent and combat child labor in March 2008, INFOTEP and EDUCA (Accion para La Educacion Basica) implemented a program to provide technical training to 2,500 young people who were in vulnerable circumstances. Public campaigns also have heightened awareness on child labor issues, including "This isn't a game," on child domestic work, and "I'm not working anymore," on hazardous child labor in the agricultural sector.

Sugarcane

¶A. Sugar (produced in San Pedro de Macoris, Barahona)

¶B. Type of exploitation

Exploitive child labor

¶C. Sources

-Interview with Dr. Washington Gonzalez, Director of Labor, Ministry of Labor, September 2007;

- interview with Campos de Moya, Public Relations Director, Sugar Consortium of Industrial Companies (CAEI), July 2007;
- Interview with Noemi Mendez, Staff Attorney, CEDAIL, August 2007;
- Interview with Jose Sergio Abreu, Juana Diaz, Office of Child Welfare and Justice Promotion, World Vision, Dominican Republic, May 2008;
- Interview with Bridget Wooding, Research Associate, Latin American Faculty of Social Science (FLACSO), May 2008
- Interview with Adres Marranzini, Deputy Director of Labor, September 2009
- Interview with Fernando Ferran, Vicini Group, November 2009
- Interview with Dr. Pedro Ubiera, Executive Director, CEDAIL, February 2010

D. Narrative

In an meeting with PolOff, MOL officials maintained child labor has been eliminated in the Sugar Consortium of Industrial Companies. In reference to this claim during a meeting, Dr. Pedro Ubiera of CEDAIL said the increased attention and focus on child labor by the GoDR played a significant role in reducing, but not eliminating, child labor on sugar plantations. During several tours with the Vicini Group, Poloff did not suspect the men working in the sugar

fields or as cane cutters were under 18. Regular inspections are completed often for the three main private sugar companies, and no incidence of child labor was found.

As reported previously in ref B, due to the GoDR's increased attention on illegal Haitian immigration, the Specialized Border Security Corps (CESFRONT) efforts to combat the illegal smuggling and trafficking of Haitians, and the increase in mechanization has led to the decline in the employment of Haitian cane cutters in the sugar industry. As many NGOs and activists have noted in the past, the numbers of Haitian workers are increasingly growing in the construction and the hotel/tourism industries.

In a Post sponsored survey (ref C), forced labor as a current practice in the sugar industry was determined to be nonexistent in the production of sugar. During the reporting period, NGOs representing Haitian workers and their rights did not raise the issue of forced labor as a concern to PolOff. Moreover, PolOff communicated with all three major private sugar cane companies and toured several of their facilities, and found no incidence of forced labor as previously reported. After speaking with sugar cane workers from several bateyes and labor lawyers from Catholic Relief Services (CRS), the issue of forced labor was also found not to be a major cQrn or grievance.

E. Prevalence

The information contained in ref B with respect to alleged child labor in Barahona and San Pedro de Macoris remains accurate. There were no reports of forced labor in sugar plantations during the reporting period.

1F. Host government, industry, or NGO efforts

The Labor Ministry's program "Action on Child Labor" was established for eight bateyes in the provinces of Barahona, Batoruco and Independencia. A sugar consortium, in coordination with other NGOs, added eight "Espacios para Crecer" facilities in the sugar communities, benefiting an additional 370 students, as well as distributing 5,000 flyers to underage persons on their rights.

Larimar

Several NGOs continue to report on the presence of child labor in the mining of larimar, a semi-precious indigenous gemstone in the Barahona region. Information contained in ref B remains valid.

16. The following information below is requested in paragraphs 17 to 21 in ref A.

2A) Prevalence and Sectoral Distribution of Exploitive Child Labor

17. In the Dominican Republic, children typically are found working in domestic service, street vending, small family owned businesses, and child prostitution. Post was unable to obtain direct information or statistics on the prevalence and sectoral distribution of exploitative child labor from the GoDR.

2B) Laws and Regulations

The new Dominican constitution, promulgated in January 2010, added a provision, expressed in article 56, that protects the fundamental rights of children against any form of exploitation, including child labor. The law prohibits child labor under the age of 14, places restrictions on employment of children under 16, and protects children under the age of 18 from the worst forms of child labor. Children under 18 years of age are prohibited from work involving dangerous substances, heavy machinery, heavy loads, dangerous machines and tools, alcohol, electricity, loud noises, mines, being underground or at high sea, care giving, construction, confined spaces, explosives, work on the street, gambling, production of sugar cane, certain work in hotels, and extreme temperatures. Violations of the Labor Code for minors are punishable by fines of 7 to 12 times the minimum salaries, with increased fines in cases of recurrence. The law prohibits forced or compulsory labor. The sale and trafficking of children are also prohibited under the Dominican Criminal Code. The Protection of Children and Adolescents Law provides penalties for purposes of trafficking, for forced labor, commercial sexual exploitation, or other degrading activities ranging from 20 to 30 years imprisonment

and fines from 100 to 150 times the minimum wage.

Because most work performed by children is in the informal sector, illegal in nature, or hidden, it is difficult for the government to track, provide protection under the Dominican Labor Code, or take the necessary steps to assist children in engaged exploitative work.

Although prostitution is legal, the use, procurement, or offering of a child for the purposes of prostitution for the production of pornography or illicit activities in pornography is prohibited by law. The law contains specific provisions that prohibit and penalize child pornography, the use of child or illicit activities, and the trafficking of children.

2C) Institutions and Mechanisms for Enforcement

Child labor is common in the informal sector, small businesses, private households, and agricultural sectors. The GoDR, however, has increased its efforts in combating the worst forms of child labor. The MOL did not provide Post with the number of child labor complaints received during the year or the number of children that were removed from child labor activities. Because children often work in the agriculture sector with their parents or in family-run businesses, MOL stated the issue of child labor often goes unreported. The MOL has 203 trained labor inspectors located in 38 offices throughout the country to enforce the labor code. In 2009, the MOL conducted a total of 83,363 labor inspections, with over 2,000 infractions. These include violations of Labor Code 245 (minors)-about 1% of the total (Jan-June 2009) and 1-1/4% in 2008.

From 2006 to 2009, MOL reports it has removed over 27,300 children from dangerous situations and work exploitation.

The MOL did not provide a breakdown of what sectors the infractions occurred and whether child labor was involved. The GoDR also uses six Safety and Hygiene officials, a group of labor officials, and department of judicial assistance officials to assist with the enforcement of child labor laws.

2C) Section 1: Hazardous Child Labor

The MOL, the National Council for Children and Adolescents (CONANI), and the Attorney General's Office are responsible for the enforcement of laws relating to hazardous child labor. As noted above, MOL stated that the infractions that included violations of the Labor Code with respect to minors were about 1 percent of the total infractions. There are no specific regulations that pertain to hazardous child labor other than the provisions in the Resolution to the ILO, the Constitution, the Labor Code, and the Criminal Code. The GoDR did not provide Post any other information

in relation to complaints received for hazardous child labor.

2C) Section 2: Forced Child Labor

Enforcement of forced child labor laws is under the authority of the MOL, CONANI, and the Attorney General's Office. The information reported on hazardous child labor also applies to forced labor as well. The MOL did not report to Post any complaints or infractions received for both hazardous child or forced labor. Under the National Strategy for Eradication of Worst Forms of Child Labor (2006-2016), the MOL sets the objectives and identifies the key priorities to efficiently address exploitive child labor and to significantly reduce the number of child laborers by 2016.

Through site inspections, MOL confirmed child labor was not used on the inspected sugar consortium's fields in 2007. During the reporting period, Post did not receive any new information on recent inspections.

2D) Institutions and Mechanisms for Enforcement

The GoDR reported that the Public Prosecutor's Office, the Office of the Attorney-General, Inter-Agency Commission to Combat Abuse and Sexual Exploitation for Commercial Purposes, and the Special Prosecutor for Children and Youth are tasked with investigating sexual exploitation of children and trafficking. The GoDR does not draw distinctions as to whether a child is more vulnerable to commercial sexual exploitation or other labor risks. The GoDR reported that it budgeted \$351, 707 USD in previous years to combat illegal child labor. The GoDR did not provide data on the number of children rescued from trafficking, commercial sexual exploitation, or from illicit activities.

The GoDR supported Llama y Vive (Call and Live), a public campaign against sexual and labor exploitation that promotes national

hotlines for prevention and victim assistance, launched by the Attorney General's office in July 2007. Post was not provided information on its effectiveness or how often the hotline was used.

2D) Section 1: Child Trafficking

Units of the National Police (Human Trafficking Division, established in 2008), the Migration Directorate, the Navy, and the Attorney General's Office are the government agencies responsible for the enforcement of trafficking laws. The Attorney General's Anti-Trafficking Unit established in 2004 coordinates the investigation and prosecution of criminal trafficking cases. The

State Ministry for Women reported that, during the reporting period, it had handled 8 trafficking victims' cases (involving 7 women and 1 minor), of which 4 were being pursued by prosecutors. (Note: During 2008, there were four known investigations underway for trafficking in persons). The Attorney General's office reported that criminal laws other than Law 137-03 may be used to provide a legal basis for prosecutions, and that such laws may be preferable "when a risk of re-victimization exists."

2D) Section 2: Commercial Sexual Exploitation of Children

The GoDR created the National Directorate for Assistance to Victims that coordinates official and NGO efforts to assist child victims of both violence and sexual abuse. The Inter-Agency Commission to Combat Abuse and Sexual Exploitation for Commercial Purposes is headed jointly by the Ministry of Labor and the National Child and Youth Council (CONANI), with support from the Public Prosecutor's Office and the Special Prosecutor for Children and Youth to combat sexual exploitation of children, especially in tourist areas. CONANI also operates a "700" hotline to report child abuse. During the year, the Attorney General's Office reported that it had three active judicial cases against foreigners who were allegedly involved in the commercial sexual exploitation of children. There is no other information available on how much funding is designated to assist with these efforts. Under the Minors Code, CONANI is supposed to receive 2% of the national budget. This mandate, however, was not met during the reporting period.

2D) Section 3: Use of Children in Illicit Activities

The information reported in the commercial sexual exploitation of children applies to the use of children in illicit activities.

2E) Government Policies on Child Labor

The GoDR is in the in the process of implementing the following plans and activities to prevent exploitive child labor:

- * National Strategic Plan for the Eradication of the Worst Forms of Child Labor in the Dominican Republic 2006-2016 (coordinated by the MOL)
- * Policy Guidelines for the Integral Protection of Children and Adolescents on the street in the Dominican Republic 2007-2012 (coordinated by the National Council for Childhood and Adolescence)
- * GoDR is conducting various trainings on child labor for

judges and prosecutors in partnership with the Judiciary School. A child labor intervention guide will be distributed to all judges and prosecutors in the country.

* In July 2008, 33 local committees were formed on the elimination of the worst forms of child labor. In January 2009, another committee was formed with a final total of 34.

In May 2008, the GoDR and the International Labor Organization signed an agreement to implement a strategy to combat poverty and improve income and investment through cash transfers to low income families. This agreement aimed not only to provide training activities for families and help reduce poverty, but also to raise awareness of the harmful consequences of child labor.

In Phase I of the National Plan for the Elimination of the Worst Forms of Child Labor, the GoDR promised to give US\$300,000, but only contributed US\$100,000. However, during the subsequent phases of the plan, the GoDR provided additional funding to support technical, institutional, and infrastructure components. The GoDR further also offered technical assistance, facilities, training materials, and other non-monetary support in fighting against child labor and the commercial sexual exploitation of children. The MOL made significant improvements in combating child labor and implementing the various plans to address the issue of child labor.

The National Steering Committee to Combat Child Labor (NSC) met six times in 2008. In 2009, the NSC only met twice. The GoDR signed a new memorandum of understanding with the ILO. The government ratified ILO Convention 182.

2F) Social Programs to Eliminate or Prevent Child Labor

From 2007 to 2009, there were nine programs implemented to prevent and remove children and adolescents from the worst forms of child labor, including commercial sexual exploitation. During the period from 2008 to 2009, these programs withdrew 1,880 children from child labor. In terms of prevention, 1, 971 children have benefited as a result.

2G) Continual Progress

In 2009, the GoDR invested \$75, 084 US to support programs combating exploitive child labor, which is a decline from \$351,707 in 2008. Although the number of inspections increased in 2009, the number of investigations for child labor decreased during the same time period. There was no information available on the number of convictions and prosecutions related to exploitive child labor. According to a 2008 publication by OIT-IPEC, child labor decreased from about 436,000 in 2000, to 247,000 in 2004, and to 155,000 in 2008, falling from over 18% in 2000 to 5.8% in 2008.

Lambert